APPENDIX A

[Filed April 7, 1966]

Order

This matter having come on for hearing upon the Motion of Intervenor (Jerome S. Spevack) to dismiss the "Petition of J. William Pike for Access to Impounded Record" (in Spevack v. Strauss et al., C.A. 880-57 in this Court), and upon consideration of the pleadings filed herein and a copy of the Order of Judge F. Dickinson Letts signed July 23, 1959 in said C.A. 880-57, which is a part of the impounded record in said case (a copy of which order is made a part of the record herein), and arguments of counsel in open Court, it is this 7th day of April, 1966,

ORDERED:

1. That the Intervenor's Motion to Dismiss the Petition be and the same hereby is denied;

2. That the said Petition for Access to said impounded record be and the same hereby is granted, *provided however,* that said record shall remain impounded for a period of five days from the date of the signing of this order for the purpose of giving the Intervenor time within which to file an appeal to the appropriate Court, and *provided further,* that in the event an appeal is not noted within said five day period, said record shall be released from the order of impoundment, and *provided further,* that in the event an appeal is noted to the appropriate Court, the said record shall remain impounded subject to final disposition of the matter on appeal.

JOSEPH J. MCGARRAGHY
Judge

[Certificate of Service, dated April 6, 1966]

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20,310

September Term, 1966

Misc. No. 4-64

JEROME S. SPEVACK, *Appellant*,

v.

J. WILLIAM PIKE, ET AL., *Appellees*.

APPEAL FROM the United States District Court for the District of Columbia.

Before: Bazelon, Chief Judge, and Danaher, Circuit Judge, and Coffin, Circuit Judge of the United States Court of Appeals for the First Circuit*.

Judgment

THIS CAUSE came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

ON CONSIDERATION WHEREOF It is ordered and adjudged by this Court that the judgment of the District Court appealed from in this cause be, and it is hereby, affirmed.

Per Curiam

Dated: Dec. 22, 1966

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* Sitting by designation pursuant to Section 291(a), Title 28, U. S. Code.

UNITED STATES COURT OF APPEALS
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September Term, 1966

Misc. No. 4-64

JEROME S. SPEVACK, *Appellant*,

v.

J. WILLIAM PIKE, ET AL., *Appellees*.

Before: Bazelon, Chief Judge; and Fahy, Danaher, Burger, Wright, McGowan, Tamm, Leventhal and Robinson, Circuit Judges, in Chambers.

Order

On consideration of appellant's petition for rehearing *en banc*, it is

ORDERED by the court *en banc* that appellant's aforesaid petition is denied.

Per Curiam

Per Curiam.

SPEVACK v. STRAUSS ET AL.

Certiorari to the United States Court of Appeals for the District of Columbia Circuit

No. 339. Argued March 5, 1959—Decided March 23, 1959.

It appearing upon oral argument that in the normal course the fee for petitioner's United States patents must be paid by May 25, 1959, and that the patent will issue shortly after payment of the fee, the case is remanded to the District Court with instructions.

Reported below: 103 U. S. App. D. C. 204, 257 F. 2d 208.

Carleton U. Edwards II and *Joseph Y. Houghton* argued the cause for petitioner. With them on the brief was *Bernard Margolius.*

Leonard B. Sand argued the cause for respondents. With him on the brief were *Solicitor General Rankin, Assistant Attorney General Doub, Samuel D. Slade, Lionel Kestenbaum, Loren K. Olson* and *Roland A. Anderson.*

Briefs of *amici curiae* urging reversal were filed by *Elisha Hanson, Arthur B. Hanson* and *Calvin H. Cobb, Jr.* for the American Chemical Society, and by *Carlton S. Dargusch* and *Carlton S. Dargusch, Jr.* for Engineers Joint Council, Inc.

PER CURIAM.

Upon oral argument, it appeared that in the normal course the fee for petitioner's United States patent must be paid by May 25, 1959, and that the patent will issue shortly after payment of the fee. Accordingly, the case is remanded to the District Court and that court is instructed: (1) If petitioner has by May 25, 1959, paid the patent fee for his patent, and has not requested a suspension or delay in the issuance thereof, or has withdrawn any such request theretofore made, to continue the case and the restraining orders entered herein by THE CHIEF JUSTICE until the patent issues, and then to dismiss the complaint as moot; (2) otherwise, on May 25, 1959, to dismiss the complaint on the ground that, apart from the merits of the controversy, the grant of the extraordinary equitable relief of an injunction at that stage of the proceedings would not be warranted. Upon the fulfillment of either of these conditions, the proceedings heretofore had in the two lower courts are vacated.

APPENDIX B

Constitution of the United States of America

WE THE PEOPLE of the United States in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

* * *

ARTICLE III

SECTION 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; . . .

* * *

Federal Rules of Civil Procedure

Rule 1. *Scope of Rules.* Theses rules govern the procedure in the United States District Courts in all suits of a civil nature whether cognizable as cases at law or in equity, with the exceptions stated in Rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

Rule 2. *One Form of Action.* There shall be one form of action to be known as "civil action".

Rule 3. *Commencement of Action.* A civil action is commenced by filing a complaint with the court.

Rule 7. *Pleadings Allowed; Form of Motions.* * * *

(b) *Motions and Other Papers*

(1) An application to the court for an order shall be by a motion. . . ."

Rule 17. *Parties, Plaintiff and Defendant; Capacity.*

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest; . . ."